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S.B. CIVIL WRIT PETITION NO.7088/2007.
Mangi Lal Choudhary Vs. State & Ors.

Date of Order :: 29th October 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. J.P. Joshi, for the petitioner.

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BY THE COURT:

The petitioner working as Secretary, Krishi Upaj Mandi Samiti (Fruits & Vegetables), Jodhpur having been transferred to Jaisalmer by the order dated 23.10.2007 (Annex.5) seeks to question his transfer order by way of this writ petition.

Learned counsel for the petitioner has referred to the material placed on record and submitted that it is but apparent that by the order dated 26.05.2007 (Annex.3), the petitioner was transferred from the Agriculture Marketing Directorate, Jaipur to Krishi Upaj Mandi Samiti, Jaisalmer; and then, by the order dated 31.07.2007 (Annex.4), the petitioner was transferred from Jaisalmer to the present place of posting and he joined thereat. Now by the impugned order dated 23.10.2007 (Annex.5), the petitioner is sought to be sent back to Jaisalmer. It is contended that the order in question has been made in colourable exercise of powers bereft of any administrative exigency, particularly for the petitioner not towing the line as would be liked to be forced by

the Chairman of Krishi Upaj Mandi Samiti, Jodhpur (respondent No.3). It is also contended that the present case is clearly that of unnecessary frequent transfers and then, the fact remains that the petitioner is due to retire from the services by 31.12.2008; and the transfer order is even contrary to the requirements of the policy of the State Government.

On being questioned about availability of alternative remedy of filing appeal before the Rajasthan Civil Services Appellate Tribunal, learned counsel submitted that though the order in question could be challenged in appeal before the Tribunal but the same cannot be said to an efficacious remedy for the reason that the Tribunal is not holding regular sitting at Jodhpur and then, the order in question is sought to be forced upon the petitioner and while taking recourse to the alternative remedy, the very cause is likely to be frustrated.

Having given a thoughtful consideration to the submissions made on behalf of the petitioner, this Court is clearly of opinion that from the material placed on record, no special reason or circumstances appear wherefor the petitioner be permitted to maintain a writ petition directly before this Court. The grounds sought to be urged on behalf of the petitioner whether of colourable exercise of powers, or of political interference, or of his being on the verge of retirement, or having been subjected to frequent transfers etc., are all the ground that could be urged by

the petitioner before the Appellate Forum. Of course, the aspect of alternative remedy is self-imposed restriction and not a rule of law as such but then, challenge in relation to the transfer order of the present nature where no violation of any statutory requirement has been alleged and then, the allegations of political interference and colourable exercise of powers are dependent on other facts and factors, the ordinary statutory remedy of appeal ought to be resorted to. So far the functioning of the Tribunal is concerned, it is not in dispute that the Tribunal is holding a Circuit Sitting at Jodhpur and else, is regularly functioning at Jaipur.

In the overall facts and circumstances of the case, this Court does not find any special reason or circumstance wherefor the petitioner be permitted to by-pass the alternative remedy.

Exercise of writ jurisdiction is refused; and the writ petition is rejected.

However, it is made clear that for not being inclined to entertain the matter in writ jurisdiction, this Court has not made any comment on the merits of the grounds sought to be urged by the petitioner in this writ petition.

(DINESH MAHESHWARI), J.

Mohan/